

1-1 By: Hinojosa, Hegar S.B. No. 660
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 660 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the review and functions of the Texas Water Development
1-11 Board, including the functions of the board and related entities in
1-12 connection with the process for establishing and appealing desired
1-13 future conditions in a groundwater management area.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. SECTION 6.013, Water Code, is amended to read as
1-16 follows:

1-17 Sec. 6.013. SUNSET PROVISION. The Texas Water Development
1-18 Board is subject to review under Chapter 325, Government Code
1-19 (Texas Sunset Act), but is not abolished under that chapter. The
1-20 board shall be reviewed during the period in which state agencies
1-21 abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are
1-22 reviewed.

1-23 SECTION 2. Subchapter D, Chapter 6, Water Code, is amended
1-24 by adding Sections 6.113, 6.114, and 6.115 to read as follows:

1-25 Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
1-26 RESOLUTION. (a) The board shall develop and implement a policy to
1-27 encourage the use of:

1-28 (1) negotiated rulemaking procedures under Chapter
1-29 2008, Government Code, for the adoption of board rules; and

1-30 (2) appropriate alternative dispute resolution
1-31 procedures under Chapter 2009, Government Code, to assist in the
1-32 resolution of internal and external disputes under the board's
1-33 jurisdiction.

1-34 (b) The board's procedures relating to alternative dispute
1-35 resolution must conform, to the extent possible, to any model
1-36 guidelines issued by the State Office of Administrative Hearings
1-37 for the use of alternative dispute resolution by state agencies.

1-38 (c) The board shall:

1-39 (1) coordinate the implementation of the policy
1-40 adopted under Subsection (a);

1-41 (2) provide training as needed to implement the
1-42 procedures for negotiated rulemaking or alternative dispute
1-43 resolution; and

1-44 (3) collect data concerning the effectiveness of those
1-45 procedures.

1-46 Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,
1-47 REMEDIES, AND ENFORCEMENT. (a) In this section:

1-48 (1) "Default" means:

1-49 (A) default in payment of the principal of or
1-50 interest on bonds, securities, or other obligations purchased or
1-51 acquired by the board or failure to perform any covenant of such
1-52 bond, security, or other obligations;

1-53 (B) a failure to perform any of the terms of a
1-54 loan, grant, or other financing agreement; or

1-55 (C) any other failure to perform an obligation,
1-56 breach of a term of an agreement, or default as provided by any
1-57 proceeding or agreement evidencing an obligation or agreement of a
1-58 recipient, beneficiary, or guarantor of financial assistance
1-59 provided by the board.

1-60 (2) "Financial assistance program recipient" means a
1-61 recipient or beneficiary of funds administered by the board under
1-62 this code, including a borrower, grantee, guarantor, or other
1-63 beneficiary.

2-1 (b) In the event of a default and on request by the board,
 2-2 the attorney general shall seek:

2-3 (1) a writ of mandamus to compel a financial
 2-4 assistance program recipient or the financial assistance program
 2-5 recipient's officers, agents, and employees to cure the default;
 2-6 and

2-7 (2) any other legal or equitable remedy the board and
 2-8 the attorney general consider necessary and appropriate.

2-9 (c) A proceeding authorized by this section shall be brought
 2-10 and venue is in a district court in Travis County.

2-11 (d) In a proceeding under this section, the attorney general
 2-12 may recover reasonable attorney's fees, investigative costs, and
 2-13 court costs incurred on behalf of the state in the proceeding in the
 2-14 same manner as provided by general law for a private litigant.

2-15 Sec. 6.115. RECEIVERSHIP. (a) In addition to the remedies
 2-16 provided under Section 6.114 and in the event of a default by an
 2-17 entity other than a city, county, or district or authority created
 2-18 under Section 52, Article III, or Section 59, Article XVI, Texas
 2-19 Constitution, at the request of the board the attorney general
 2-20 shall bring suit for the appointment of a receiver to collect the
 2-21 assets and carry on the business of the financial assistance
 2-22 program recipient if necessary to cure the default.

2-23 (b) The court shall appoint a receiver with such powers and
 2-24 duties as are necessary to cure the default, including but not
 2-25 limited to:

2-26 (1) performing audits;
 2-27 (2) raising wholesale or retail water or sewer rates
 2-28 or other fees;

2-29 (3) funding reserve accounts;
 2-30 (4) making payment of the principal of or interest on
 2-31 bonds, securities, or other obligations purchased or acquired by
 2-32 the board; and

2-33 (5) taking any other action necessary to prevent or to
 2-34 remedy the default.

2-35 (c) The receiver shall execute a bond to assure the proper
 2-36 performance of the receiver's duties in an amount to be set by the
 2-37 court.

2-38 (d) After appointment and execution of bond, the receiver
 2-39 shall take possession of the books, records, accounts, and assets
 2-40 of the financial assistance program recipient specified by the
 2-41 court. Until discharged by the court, the receiver shall perform
 2-42 the duties that the court directs and shall strictly observe the
 2-43 final order involved.

2-44 (e) On a showing of good cause by the financial assistance
 2-45 program recipient, the court may dissolve the receivership.

2-46 (f) A proceeding authorized by this section shall be brought
 2-47 and venue is in a district court in Travis County.

2-48 SECTION 3. Section 6.154, Water Code, is amended to read as
 2-49 follows:

2-50 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain
 2-51 a system to promptly and efficiently act on complaints [~~file on each~~
 2-52 ~~written complaint~~] filed with the board. The board shall maintain
 2-53 information about parties to the complaint, [~~file must include:~~

2-54 [~~(1) the name of the person who filed the complaint,~~
 2-55 [~~(2) the date the complaint is received by the board,~~
 2-56 [~~(3) the subject matter of the complaint,~~ [~~+~~
 2-57 [~~(4) the name of each person contacted in relation to~~
 2-58 ~~the complaint,~~

2-59 [~~(5) a summary of the results of the review or~~
 2-60 ~~investigation of the complaint, and the complaint's disposition~~ [~~+~~
 2-61 ~~and~~

2-62 [~~(6) an explanation of the reason the file was closed,~~
 2-63 ~~if the agency closed the file without taking action other than to~~
 2-64 ~~investigate the complaint].~~

2-65 (b) The board shall make information available describing
 2-66 its [~~provide to the person filing the complaint and to each person~~
 2-67 ~~who is a subject of the complaint a copy of the board's policies~~
 2-68 ~~and] procedures for [~~relating to~~] complaint investigation and
 2-69 resolution.~~

3-1 SECTION 4. Section 6.155, Water Code, is amended to read as
 3-2 follows:

3-3 Sec. 6.155. NOTICE OF COMPLAINT. The board~~[, at least~~
 3-4 ~~quarterly until final disposition of the complaint,]~~ shall
 3-5 periodically notify the ~~[person filing the]~~ complaint parties ~~[and~~
 3-6 ~~each person who is a subject of the complaint]~~ of the status of the
 3-7 complaint until final disposition ~~[investigation unless the notice~~
 3-8 ~~would jeopardize an undercover investigation].~~

3-9 SECTION 5. Section 11.1271, Water Code, is amended by
 3-10 amending Subsection (f) and adding Subsection (g) to read as
 3-11 follows:

3-12 (f) The commission shall adopt rules:

3-13 (1) establishing criteria and deadlines for
 3-14 submission of water conservation plans, including any required
 3-15 amendments, and for submission of implementation reports; and

3-16 (2) requiring the uniform water use calculation system
 3-17 developed under Section 16.403 to be used in the water conservation
 3-18 plans required by this section.

3-19 (g) At a minimum, rules adopted under Subsection (f)(2) must
 3-20 require an entity to report the most detailed level of municipal
 3-21 water use data currently available to the entity. The commission
 3-22 may not adopt a rule that requires an entity to report municipal
 3-23 water use data that is more detailed than the entity's billing
 3-24 system is capable of producing.

3-25 SECTION 6. Section 16.021, Water Code, is amended by
 3-26 amending Subsections (c), (d), and (e) and adding Subsections (d-1)
 3-27 and (g) to read as follows:

3-28 (c) The executive administrator shall designate the
 3-29 director of the Texas Natural Resources Information System to serve
 3-30 as the state geographic information officer. The state geographic
 3-31 information officer shall:

3-32 (1) coordinate the acquisition and use of
 3-33 high-priority imagery and data sets;

3-34 (2) establish, support, and disseminate authoritative
 3-35 statewide geographic data sets;

3-36 (3) support geographic data needs of emergency
 3-37 management responders during emergencies;

3-38 (4) monitor trends in geographic information
 3-39 technology; and

3-40 (5) support public access to state geographic data and
 3-41 resources ~~[The Texas Geographic Information Council (TGIC) is~~
 3-42 ~~created to provide strategic planning and coordination in the~~
 3-43 ~~acquisition and use of geo-spatial data and related technologies in~~
 3-44 ~~the State of Texas. The executive administrator and the executive~~
 3-45 ~~director of the Department of Information Resources shall designate~~
 3-46 ~~entities to be members of the TGIC. The chief administrative~~
 3-47 ~~officer of each member entity shall select one representative to~~
 3-48 ~~serve on the TGIC. The duties of the TGIC shall include providing~~
 3-49 ~~guidance to the executive administrator in carrying out the~~
 3-50 ~~executive administrator's duties under this section and guidance to~~
 3-51 ~~the Department of Information Resources for development of rules~~
 3-52 ~~related to statewide geo-spatial data and technology standards].~~

3-53 (d) Not later than December 1, 2016, and before the end of
 3-54 each successive five-year period after that date, the board shall
 3-55 submit to the governor, lieutenant governor, and speaker of the
 3-56 house of representatives a report that contains recommendations
 3-57 regarding:

3-58 (1) statewide geographic data acquisition needs and
 3-59 priorities, including updates on progress in maintaining the
 3-60 statewide digital base maps described by Subsection (e)(6);

3-61 (2) policy initiatives to address the acquisition,
 3-62 use, storage, and sharing of geographic data across the state;

3-63 (3) funding needs to acquire data, implement
 3-64 technologies, or pursue statewide policy initiatives related to
 3-65 geographic data; and

3-66 (4) opportunities for new initiatives to improve the
 3-67 efficiency, effectiveness, or accessibility of state government
 3-68 operations through the use of geographic data ~~[Member entities of~~
 3-69 ~~the TGIC that are state agencies shall, and member entities that are~~

4-1 ~~not state agencies may, provide information to the TCIC about their~~
4-2 ~~investments in geographic information and plans for its use. Not~~
4-3 ~~later than November 1 of each even-numbered year, the TCIC shall~~
4-4 ~~prepare and provide to the board, the Department of Information~~
4-5 ~~Resources, the governor, and the legislature a report that:~~

4-6 ~~(1) describes the progress made by each TCIC member~~
4-7 ~~entity toward achieving geographic information system goals and in~~
4-8 ~~implementing geographic information systems initiatives; and~~

4-9 ~~(2) recommends additional initiatives to improve the~~
4-10 ~~state's geographic information systems programs].~~

4-11 (d-1) The board shall consult with stakeholders in
4-12 preparing the report required by Subsection (d).

4-13 (e) The ~~[Under the guidance of the TCIC, the]~~ executive
4-14 administrator shall:

4-15 (1) further develop the Texas Natural Resources
4-16 Information System by promoting and providing for effective
4-17 acquisition, archiving, documentation, indexing, and dissemination
4-18 of natural resource and related digital and nondigital data and
4-19 information;

4-20 (2) obtain information in response to disagreements
4-21 regarding names and name spellings for natural and cultural
4-22 features in the state and provide this information to the Board on
4-23 Geographic Names of the United States Department of the Interior;

4-24 (3) make recommendations to the Board on Geographic
4-25 Names of the United States Department of the Interior for naming any
4-26 natural or cultural feature subject to the limitations provided by
4-27 Subsection (f);

4-28 (4) make recommendations to the Department of
4-29 Information Resources to adopt and promote standards that
4-30 facilitate sharing of digital natural resource data and related
4-31 socioeconomic data among federal, state, and local governments and
4-32 other interested parties;

4-33 (5) acquire and disseminate natural resource and
4-34 related socioeconomic data describing the Texas-Mexico border
4-35 region; and

4-36 (6) coordinate, conduct, and facilitate the
4-37 development, maintenance, and use of mutually compatible statewide
4-38 digital base maps depicting natural resources and man-made
4-39 features.

4-40 (g) The board may establish one or more advisory committees
4-41 to assist the board or the executive administrator in implementing
4-42 this section, including by providing information in connection with
4-43 the preparation of the report required by Subsection (d). In
4-44 appointing members to an advisory committee, the board shall
4-45 consider including representatives of:

4-46 (1) state agencies that are major users of geographic
4-47 data;

4-48 (2) federal agencies;

4-49 (3) local governments; and

4-50 (4) the Department of Information Resources.

4-51 SECTION 7. Subsection (b), Section 16.023, Water Code, is
4-52 amended to read as follows:

4-53 (b) The account may be appropriated only to the board to:

4-54 (1) develop, administer, and implement the strategic
4-55 mapping program;

4-56 (2) provide grants to political subdivisions for
4-57 projects related to the development, use, and dissemination of
4-58 digital, geospatial information; and

4-59 (3) administer, implement, and operate other programs
4-60 of the Texas Natural Resources Information System, including:

4-61 (A) the operation of a Texas-Mexico border region
4-62 information center for the purpose of implementing Section
4-63 16.021(e)(5);

4-64 (B) the acquisition, storage, and distribution
4-65 of historical maps, photographs, and paper map products;

4-66 (C) the maintenance and enhancement of
4-67 information technology; and

4-68 (D) the production, storage, and distribution of
4-69 other digital base maps, as determined by the executive

5-1 administrator [~~or a state agency that is a member of the Texas~~
5-2 ~~Geographic Information Council~~].

5-3 SECTION 8. Section 16.051, Water Code, is amended by adding
5-4 Subsections (a-1) and (a-2) to read as follows:

5-5 (a-1) The state water plan must include:

5-6 (1) an evaluation of the state's progress in meeting
5-7 future water needs, including an evaluation of the extent to which
5-8 water management strategies and projects implemented after the
5-9 adoption of the preceding state water plan have affected that
5-10 progress; and

5-11 (2) an analysis of the number of projects included in
5-12 the preceding state water plan that received financial assistance
5-13 from the board.

5-14 (a-2) To assist the board in evaluating the state's progress
5-15 in meeting future water needs, the board may obtain implementation
5-16 data from the regional water planning groups.

5-17 SECTION 9. Subsections (c) and (e), Section 16.053, Water
5-18 Code, are amended to read as follows:

5-19 (c) No later than 60 days after the designation of the
5-20 regions under Subsection (b), the board shall designate
5-21 representatives within each regional water planning area to serve
5-22 as the initial coordinating body for planning. The initial
5-23 coordinating body may then designate additional representatives to
5-24 serve on the regional water planning group. The initial
5-25 coordinating body shall designate additional representatives if
5-26 necessary to ensure adequate representation from the interests
5-27 comprising that region, including the public, counties,
5-28 municipalities, industries, agricultural interests, environmental
5-29 interests, small businesses, electric generating utilities, river
5-30 authorities, water districts, and water utilities. The regional
5-31 water planning group shall maintain adequate representation from
5-32 those interests. In addition, the groundwater conservation
5-33 districts located in each management area, as defined by Section
5-34 36.001, located in the regional water planning area shall appoint
5-35 one representative of a groundwater conservation district located
5-36 in the management area and in the regional water planning area to
5-37 serve on the regional water planning group. In addition,
5-38 representatives of the board, the Parks and Wildlife Department,
5-39 and the Department of Agriculture shall serve as ex officio members
5-40 of each regional water planning group.

5-41 (e) Each regional water planning group shall submit to the
5-42 development board a regional water plan that:

5-43 (1) is consistent with the guidance principles for the
5-44 state water plan adopted by the development board under Section
5-45 16.051(d);

5-46 (2) provides information based on data provided or
5-47 approved by the development board in a format consistent with the
5-48 guidelines provided by the development board under Subsection (d);

5-49 (2-a) is consistent with the desired future conditions
5-50 adopted under Section 36.108 for the relevant aquifers located in
5-51 the regional water planning area as of the date the board most
5-52 recently adopted a state water plan under Section 16.051 or, at the
5-53 option of the regional water planning group, established subsequent
5-54 to the adoption of the most recent plan;

5-55 (3) identifies:

5-56 (A) each source of water supply in the regional
5-57 water planning area, including information supplied by the
5-58 executive administrator on the amount of managed available
5-59 groundwater in accordance with the guidelines provided by the
5-60 development board under Subsections (d) and (f);

5-61 (B) factors specific to each source of water
5-62 supply to be considered in determining whether to initiate a
5-63 drought response;

5-64 (C) actions to be taken as part of the response;
5-65 and

5-66 (D) existing major water infrastructure
5-67 facilities that may be used for interconnections in the event of an
5-68 emergency shortage of water;

5-69 (4) has specific provisions for water management

6-1 strategies to be used during a drought of record;
 6-2 (5) includes but is not limited to consideration of
 6-3 the following:
 6-4 (A) any existing water or drought planning
 6-5 efforts addressing all or a portion of the region;
 6-6 (B) approved groundwater conservation district
 6-7 management plans and other plans submitted under Section 16.054;
 6-8 (C) all potentially feasible water management
 6-9 strategies, including but not limited to improved conservation,
 6-10 reuse, and management of existing water supplies, conjunctive use,
 6-11 acquisition of available existing water supplies, and development
 6-12 of new water supplies;
 6-13 (D) protection of existing water rights in the
 6-14 region;
 6-15 (E) opportunities for and the benefits of
 6-16 developing regional water supply facilities or providing regional
 6-17 management of water supply facilities;
 6-18 (F) appropriate provision for environmental
 6-19 water needs and for the effect of upstream development on the bays,
 6-20 estuaries, and arms of the Gulf of Mexico and the effect of plans on
 6-21 navigation;
 6-22 (G) provisions in Section 11.085(k)(1) if
 6-23 interbasin transfers are contemplated;
 6-24 (H) voluntary transfer of water within the region
 6-25 using, but not limited to, regional water banks, sales, leases,
 6-26 options, subordination agreements, and financing agreements; and
 6-27 (I) emergency transfer of water under Section
 6-28 11.139, including information on the part of each permit, certified
 6-29 filing, or certificate of adjudication for nonmunicipal use in the
 6-30 region that may be transferred without causing unreasonable damage
 6-31 to the property of the nonmunicipal water rights holder;
 6-32 (6) identifies river and stream segments of unique
 6-33 ecological value and sites of unique value for the construction of
 6-34 reservoirs that the regional water planning group recommends for
 6-35 protection under Section 16.051;
 6-36 (7) assesses the impact of the plan on unique river and
 6-37 stream segments identified in Subdivision (6) if the regional water
 6-38 planning group or the legislature determines that a site of unique
 6-39 ecological value exists; and
 6-40 (8) describes the impact of proposed water projects on
 6-41 water quality.
 6-42 SECTION 10. Section 16.402, Water Code, is amended by
 6-43 amending Subsection (e) and adding Subsection (f) to read as
 6-44 follows:
 6-45 (e) The board and commission jointly shall adopt rules:
 6-46 (1) identifying the minimum requirements and
 6-47 submission deadlines for the annual reports required by Subsection
 6-48 (b); ~~and~~
 6-49 (2) requiring the uniform water use calculation system
 6-50 developed under Section 16.403 to be used in the reports required by
 6-51 Subsection (b); and
 6-52 (3) providing for the enforcement of this section and
 6-53 rules adopted under this section.
 6-54 (f) At a minimum, rules adopted under Subsection (e)(2) must
 6-55 require an entity to report the most detailed level of municipal
 6-56 water use data currently available to the entity. The board and
 6-57 commission may not adopt a rule that requires an entity to report
 6-58 municipal water use data that is more detailed than the entity's
 6-59 billing system is capable of producing.
 6-60 SECTION 11. Subchapter K, Chapter 16, Water Code, is
 6-61 amended by adding Section 16.403 to read as follows:
 6-62 Sec. 16.403. UNIFORM WATER USE CALCULATION SYSTEM. The
 6-63 board and the commission, in consultation with the Water
 6-64 Conservation Advisory Council, shall develop a uniform system for
 6-65 calculating municipal water use in gallons per capita per day to be
 6-66 used by each entity required to submit a water conservation plan to
 6-67 the board or the commission under this code.
 6-68 SECTION 12. Section 17.003, Water Code, is amended by
 6-69 adding Subsections (c), (d), (e), and (f) to read as follows:

7-1 (c) Water financial assistance bonds that have been
 7-2 authorized but have not been issued are not considered to be state
 7-3 debt payable from the general revenue fund for purposes of Section
 7-4 49-j, Article III, Texas Constitution, until the legislature makes
 7-5 an appropriation from the general revenue fund to the board to pay
 7-6 the debt service on the bonds.

7-7 (d) In requesting approval for the issuance of bonds under
 7-8 this chapter, the executive administrator shall certify to the bond
 7-9 review board the debt service on the bonds that is reasonably
 7-10 expected to be paid from:

- 7-11 (1) the general revenues of the state; and
- 7-12 (2) revenue sources other than the general revenues of
 7-13 the state.

7-14 (e) The bond review board shall determine the portion of the
 7-15 debt service on bonds to be issued by the board under this chapter
 7-16 that is state debt payable from the general revenues of the state,
 7-17 in accordance with the findings made by the board in the resolution
 7-18 authorizing the issuance of the bonds and the certification
 7-19 provided by the executive administrator under Subsection (d).

7-20 (f) Bonds issued under this chapter that are designed to be
 7-21 paid from the general revenues of the state shall cease to be
 7-22 considered bonds payable from those revenues if:

7-23 (1) the bonds are backed by insurance or another form
 7-24 of guarantee that ensures payment from a source other than the
 7-25 general revenues of the state; or

7-26 (2) the board demonstrates to the satisfaction of the
 7-27 bond review board that the bonds no longer require payment from the
 7-28 general revenues of the state and the bond review board so certifies
 7-29 to the Legislative Budget Board.

7-30 SECTION 13. Section 36.001, Water Code, is amended by
 7-31 adding Subdivision (30) to read as follows:

7-32 (30) "Desired future condition" means a quantitative
 7-33 description, adopted in accordance with Section 36.108, of the
 7-34 desired condition of the groundwater resources in a management area
 7-35 at one or more specified future times.

7-36 SECTION 14. Section 36.063, Water Code, is amended to read
 7-37 as follows:

7-38 Sec. 36.063. NOTICE OF MEETINGS. (a) Except as provided
 7-39 by Subsections (b) and (c), notice [~~Notice~~] of meetings of the board
 7-40 shall be given as set forth in the Open Meetings Act, Chapter 551,
 7-41 Government Code. Neither failure to provide notice of a regular
 7-42 meeting nor an insubstantial defect in notice of any meeting shall
 7-43 affect the validity of any action taken at the meeting.

7-44 (b) At least 10 days before any meeting or hearing at which
 7-45 the board will consider or take public comments on the desired
 7-46 future condition for an aquifer, including a joint planning meeting
 7-47 under Section 36.108 attended by a district representative, the
 7-48 board must post notice that includes:

7-49 (1) the proposed desired future condition or
 7-50 conditions and a list of any other agenda items;

7-51 (2) the date, time, and location of the meeting or
 7-52 hearing;

7-53 (3) the name, telephone number, and address of the
 7-54 person to whom questions or requests for additional information may
 7-55 be submitted;

7-56 (4) the names of the other districts in the district's
 7-57 management area; and

7-58 (5) information on how the public may submit comments.

7-59 (c) Notice of a meeting or hearing described by Subsection
 7-60 (b) must be posted:

7-61 (1) in the district office;

7-62 (2) in the county courthouse of each county located
 7-63 wholly or partly in the district;

7-64 (3) with the secretary of state; and

7-65 (4) on the district's Internet website, if the
 7-66 district has an Internet website.

7-67 (d) The Texas Water Development Board by rule may adopt
 7-68 additional notice provisions for a meeting described by Subsection
 7-69 (b) to ensure reasonable notice to and comment from affected

8-1 stakeholders such as landowners, permit holders, local officials,
 8-2 and other members of the public.

8-3 SECTION 15. Subsections (a) and (e), Section 36.1071, Water
 8-4 Code, are amended to read as follows:

8-5 (a) Following notice and hearing, the district shall, in
 8-6 coordination with surface water management entities on a regional
 8-7 basis, develop a comprehensive management plan which addresses the
 8-8 following management goals, as applicable:

- 8-9 (1) providing the most efficient use of groundwater;
- 8-10 (2) controlling and preventing waste of groundwater;
- 8-11 (3) controlling and preventing subsidence;
- 8-12 (4) addressing conjunctive surface water management
 8-13 issues;
- 8-14 (5) addressing natural resource issues;
- 8-15 (6) addressing drought conditions;
- 8-16 (7) addressing conservation, recharge enhancement,
 8-17 rainwater harvesting, precipitation enhancement, or brush control,
 8-18 where appropriate and cost-effective; and
- 8-19 (8) addressing ~~[in a quantitative manner]~~ the desired
 8-20 future conditions adopted by the district under Section 36.108 ~~[of~~
 8-21 ~~the groundwater resources]~~.

8-22 (e) In the management plan described under Subsection (a),
 8-23 the district shall:

- 8-24 (1) identify the performance standards and management
 8-25 objectives under which the district will operate to achieve the
 8-26 management goals identified under Subsection (a);
- 8-27 (2) specify, in as much detail as possible, the
 8-28 actions, procedures, performance, and avoidance that are or may be
 8-29 necessary to effect the plan, including specifications and proposed
 8-30 rules;
- 8-31 (3) include estimates of the following:
 - 8-32 (A) managed available groundwater in the
 8-33 district based on the desired future condition adopted by rule
 8-34 ~~[established]~~ under Section 36.108;
 - 8-35 (B) the amount of groundwater being used within
 8-36 the district on an annual basis;
 - 8-37 (C) the annual amount of recharge from
 8-38 precipitation, if any, to the groundwater resources within the
 8-39 district;
 - 8-40 (D) for each aquifer, the annual volume of water
 8-41 that discharges from the aquifer to springs and any surface water
 8-42 bodies, including lakes, streams, and rivers;
 - 8-43 (E) the annual volume of flow into and out of the
 8-44 district within each aquifer and between aquifers in the district,
 8-45 if a groundwater availability model is available;
 - 8-46 (F) the projected surface water supply in the
 8-47 district according to the most recently adopted state water plan;
 8-48 and
 - 8-49 (G) the projected total demand for water in the
 8-50 district according to the most recently adopted state water plan;
 8-51 and
- 8-52 (4) consider the water supply needs and water
 8-53 management strategies included in the adopted state water plan.

8-54 SECTION 16. Subchapter D, Chapter 36, Water Code, is
 8-55 amended by amending Section 36.108 and adding Sections 36.1081,
 8-56 36.1082, 36.1083, 36.1084, and 36.1085 to read as follows:

8-57 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In
 8-58 this section:

- 8-59 (1) "Development ~~["development]~~ board" means the
 8-60 Texas Water Development Board.
- 8-61 (2) "District representative" means the presiding
 8-62 officer or the presiding officer's designee for any district
 8-63 located wholly or partly in the management area.

8-64 (b) If two or more districts are located within the
 8-65 boundaries of the same management area, each district shall prepare
 8-66 a comprehensive management plan as required by Section 36.1071
 8-67 covering that district's respective territory. On completion and
 8-68 approval of the plan as required by Section 36.1072, each district
 8-69 shall forward a copy of the new or revised management plan to the

9-1 other districts in the management area. The boards of the districts
 9-2 shall consider the plans individually and shall compare them to
 9-3 other management plans then in force in the management area.

9-4 (c) The district representatives [presiding officer, or the
 9-5 presiding officer's designee, of each district located in whole or
 9-6 in part in the management area] shall meet at least annually to
 9-7 conduct joint planning with the other districts in the management
 9-8 area and to review the management plans, the [and] accomplishments
 9-9 of [for] the management area, and proposals to adopt new or amend
 9-10 existing desired future conditions. In reviewing the management
 9-11 plans, the districts shall consider:

9-12 (1) the goals of each management plan and its impact on
 9-13 planning throughout the management area;

9-14 (2) the effectiveness of the measures established by
 9-15 each management plan for conserving and protecting groundwater and
 9-16 preventing waste, and the effectiveness of these measures in the
 9-17 management area generally;

9-18 (3) any other matters that the boards consider
 9-19 relevant to the protection and conservation of groundwater and the
 9-20 prevention of waste in the management area; and

9-21 (4) the degree to which each management plan achieves
 9-22 the desired future conditions established during the joint planning
 9-23 process.

9-24 (d) Not later than September 1, 2010, and every five years
 9-25 thereafter, the districts shall consider groundwater availability
 9-26 models and other data or information for the management area and
 9-27 shall propose for adoption [establish] desired future conditions
 9-28 for the relevant aquifers within the management area. Before
 9-29 voting on the proposed [In establishing the] desired future
 9-30 conditions of the aquifers under Subsection (d-2) [this section],
 9-31 the districts shall consider:

9-32 (1) aquifer uses or conditions within the management
 9-33 area, including conditions that differ substantially from one
 9-34 geographic area to another;

9-35 (2) the water supply needs and water management
 9-36 strategies included in the state water plan;

9-37 (3) hydrological conditions, including for each
 9-38 aquifer in the management area the total estimated recoverable
 9-39 storage as provided by the executive administrator, and the average
 9-40 annual recharge, inflows, and discharge;

9-41 (4) other environmental impacts, including impacts on
 9-42 spring flow and other interactions between groundwater and surface
 9-43 water;

9-44 (5) the impact on subsidence;

9-45 (6) socioeconomic impacts reasonably expected to
 9-46 occur;

9-47 (7) the impact on the interests and rights in private
 9-48 property, including ownership and the rights of management area
 9-49 landowners and their lessees and assigns in groundwater as
 9-50 recognized under Section 36.002;

9-51 (8) whether the desired future conditions are
 9-52 physically possible; and

9-53 (9) any other information relevant to the specific
 9-54 desired future conditions [uses or conditions of an aquifer within
 9-55 the management area that differ substantially from one geographic
 9-56 area to another].

9-57 (d-1) The districts may establish different desired future
 9-58 conditions for:

9-59 (1) each aquifer, subdivision of an aquifer, or
 9-60 geologic strata located in whole or in part within the boundaries of
 9-61 the management area; or

9-62 (2) each geographic area overlying an aquifer in whole
 9-63 or in part or subdivision of an aquifer within the boundaries of the
 9-64 management area.

9-65 (d-2) [~~(d-1)~~] The desired future conditions proposed
 9-66 [established] under Subsection (d) must be approved [adopted] by a
 9-67 two-thirds vote of all the district representatives for
 9-68 distribution to the districts in the management area. A 30-day
 9-69 period for public comments begins on the day the proposed desired

10-1 future conditions are mailed to the districts. During the public
 10-2 comment period and after posting notice as required by Section
 10-3 36.063, each district shall hold a public hearing on the proposed
 10-4 desired future conditions relevant to that district. During the
 10-5 public comment period, the district shall make available in its
 10-6 office a copy of the proposed desired future conditions and any
 10-7 supporting materials, such as the documentation of factors
 10-8 considered under Subsection (d) and groundwater availability model
 10-9 run results. After the public hearing, the district shall prepare
 10-10 for consideration at the next joint planning meeting a district
 10-11 report that includes comments received, suggested revisions to the
 10-12 proposed desired future conditions, and the basis for the revisions
 10-13 ~~[present at a meeting:~~

10-14 ~~[(1) at which at least two-thirds of the districts~~
 10-15 ~~located in whole or in part in the management area have a voting~~
 10-16 ~~representative in attendance; and~~

10-17 ~~[(2) for which all districts located in whole or in~~
 10-18 ~~part in the management area provide public notice in accordance~~
 10-19 ~~with Chapter 551, Government Code.~~

10-20 ~~[(d-2) Each district in the management area shall ensure~~
 10-21 ~~that its management plan contains goals and objectives consistent~~
 10-22 ~~with achieving the desired future conditions of the relevant~~
 10-23 ~~aquifers as adopted during the joint planning process].~~

10-24 ~~(d-3) After the districts have submitted their district~~
 10-25 ~~reports under Subsection (d-2), the district representatives shall~~
 10-26 ~~reconvene to review the reports, consider any district's suggested~~
 10-27 ~~revisions to the proposed desired future conditions, and finally~~
 10-28 ~~adopt the desired future conditions for the management area. The~~
 10-29 ~~desired future conditions must be adopted as a resolution by a~~
 10-30 ~~two-thirds vote of all the district representatives. The district~~
 10-31 ~~representatives shall produce a desired future conditions~~
 10-32 ~~explanatory report for the management area and submit to the~~
 10-33 ~~development board and each district in the management area proof~~
 10-34 ~~that notice was posted for the adoption meeting, a copy of the~~
 10-35 ~~resolution, and a copy of the explanatory report. The report must:~~

10-36 ~~(1) identify each desired future condition;~~

10-37 ~~(2) provide the policy and technical justifications~~
 10-38 ~~for each desired future condition;~~

10-39 ~~(3) include documentation that the factors under~~
 10-40 ~~Subsection (d) were considered by the districts and a discussion of~~
 10-41 ~~how the adopted desired future conditions impact each factor;~~

10-42 ~~(4) list other desired future condition options~~
 10-43 ~~considered and the reasons why those options were not adopted; and~~

10-44 ~~(5) discuss reasons why recommendations made by~~
 10-45 ~~advisory committees and public comments received by the districts~~
 10-46 ~~were or were not incorporated into the desired future conditions.~~

10-47 ~~(d-4) As soon as possible after a district receives the~~
 10-48 ~~desired future conditions resolution and explanatory report under~~
 10-49 ~~Subsection (d-3), the district by rule shall adopt the desired~~
 10-50 ~~future conditions in the resolution and report that apply to the~~
 10-51 ~~district.~~

10-52 ~~(d-5) A district's adoption of a desired future condition~~
 10-53 ~~may be appealed in district court in the manner provided under~~
 10-54 ~~Subchapter H for a challenge to a district rule.~~

10-55 ~~(e) Except as provided by this section, a [A] joint meeting~~
 10-56 ~~under this section must be held in accordance with Chapter 551,~~
 10-57 ~~Government Code. Each district shall comply with Chapter 552,~~
 10-58 ~~Government Code. Each district in the management area shall post~~
 10-59 ~~uniform notice [Notice] of the meeting [shall be given] in~~
 10-60 ~~accordance with Section 36.063 [the requirements for notice of~~
 10-61 ~~district board of directors meetings under that Act].~~

10-62 Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT
 10-63 PLANNING. (a) On request, the commission and the Texas Water
 10-64 Development Board shall make technical staff available to serve in
 10-65 a nonvoting advisory capacity to assist with the development of
 10-66 desired future conditions during the joint planning process under
 10-67 Section 36.108.

10-68 (b) During the joint planning process under Section 36.108,
 10-69 the district representatives may appoint and convene nonvoting

11-1 advisory subcommittees who represent social, governmental,
 11-2 environmental, or economic interests to assist in the development
 11-3 of desired future conditions.

11-4 Sec. 36.1082. PETITION FOR INQUIRY. (a) In this section,
 11-5 "affected person" means, with respect to a management area:

- 11-6 (1) an owner of land in the management area;
 11-7 (2) a district in or adjacent to the management area;
 11-8 (3) a regional water planning group with a water
 11-9 management strategy in the management area;
 11-10 (4) a person who holds or is applying for a permit from
 11-11 a district in the management area;
 11-12 (5) a person who has groundwater rights in the
 11-13 management area; or
 11-14 (6) any other person defined as affected by commission
 11-15 rule.

11-16 (b) An affected person [~~(f)~~ A district or person with a
 11-17 legally defined interest in the groundwater within the management
 11-18 area] may file a petition with the commission requesting an inquiry
 11-19 for any of the following reasons:

- 11-20 (1) a district fails to submit its management plan to
 11-21 the executive administrator;
 11-22 (2) [~~if~~] a district fails [~~or districts refused~~] to
 11-23 participate [~~join~~] in the joint planning process under Section
 11-24 36.108;

- 11-25 (3) a district fails to adopt rules;
 11-26 (4) a district fails to adopt the applicable desired
 11-27 future conditions adopted by the management area at a joint
 11-28 meeting;

- 11-29 (5) a district fails to update its management plan
 11-30 before the second anniversary of the adoption of desired future
 11-31 conditions by the management area;

- 11-32 (6) a district fails to update its rules to implement
 11-33 the applicable desired future conditions before the first
 11-34 anniversary of the date it updated its management plan with the
 11-35 adopted desired future conditions;

- 11-36 (7) [~~or the process failed to result in adequate~~
 11-37 planning, including the establishment of reasonable future desired
 11-38 conditions of the aquifers, and the petition provides evidence
 11-39 that:

- 11-40 [~~(1) a district in the groundwater management area has~~
 11-41 failed to adopt rules;

- 11-42 [~~(2)~~] the rules adopted by a district are not designed
 11-43 to achieve the desired future conditions adopted by [~~condition of~~
 11-44 the groundwater resources in] the [~~groundwater~~] management area
 11-45 [~~established~~] during the joint planning process;

- 11-46 (8) [~~(3)~~] the groundwater in the management area is
 11-47 not adequately protected by the rules adopted by a district; or

- 11-48 (9) [~~(4)~~] the groundwater in the [~~groundwater~~]
 11-49 management area is not adequately protected due to the failure of a
 11-50 district to enforce substantial compliance with its rules.

11-51 (c) [~~(g)~~] Not later than the 90th day after the date the
 11-52 petition is filed, the commission shall review the petition and
 11-53 either:

- 11-54 (1) dismiss the petition if the commission finds that
 11-55 the evidence is not adequate to show that any of the conditions
 11-56 alleged in the petition exist; or

- 11-57 (2) select a review panel as provided in Subsection
 11-58 (d) [~~(h)~~].

11-59 (d) [~~(h)~~] If the petition is not dismissed under Subsection
 11-60 (c) [~~(g)~~], the commission shall appoint a review panel consisting
 11-61 of a chairman and four other members. A director or general manager
 11-62 of a district located outside the [~~groundwater~~] management area
 11-63 that is the subject of the petition may be appointed to the review
 11-64 panel. The commission may not appoint more than two members of the
 11-65 review panel from any one district. The commission also shall
 11-66 appoint a disinterested person to serve as a nonvoting recording
 11-67 secretary for the review panel. The recording secretary may be an
 11-68 employee of the commission. The recording secretary shall record
 11-69 and document the proceedings of the panel.

12-1 (e) [~~(i)~~] Not later than the 120th day after appointment,
 12-2 the review panel shall review the petition and any evidence
 12-3 relevant to the petition and, in a public meeting, consider and
 12-4 adopt a report to be submitted to the commission. The commission
 12-5 may direct the review panel to conduct public hearings at a location
 12-6 in the [~~groundwater~~] management area to take evidence on the
 12-7 petition. The review panel may attempt to negotiate a settlement or
 12-8 resolve the dispute by any lawful means.

12-9 (f) [~~(j)~~] In its report, the review panel shall include:

12-10 (1) a summary of all evidence taken in any hearing on
 12-11 the petition;

12-12 (2) a list of findings and recommended actions
 12-13 appropriate for the commission to take and the reasons it finds
 12-14 those actions appropriate; and

12-15 (3) any other information the panel considers
 12-16 appropriate.

12-17 (g) [~~(k)~~] The review panel shall submit its report to the
 12-18 commission. The commission may take action under Section 36.3011.

12-19 Sec. 36.1083. MANAGED AVAILABLE GROUNDWATER. The Texas
 12-20 Water Development Board shall require the [~~(l)~~] ~~A person with a~~
 12-21 ~~legally defined interest in the groundwater in the groundwater~~
 12-22 ~~management area, a district in or adjacent to the groundwater~~
 12-23 ~~management area, or a regional water planning group for a region in~~
 12-24 ~~the groundwater management area may file a petition with the~~
 12-25 ~~development board appealing the approval of the desired future~~
 12-26 ~~conditions of the groundwater resources established under this~~
 12-27 ~~section. The petition must provide evidence that the districts did~~
 12-28 ~~not establish a reasonable desired future condition of the~~
 12-29 ~~groundwater resources in the groundwater management area.~~

12-30 ~~[(m) The development board shall review the petition and any~~
 12-31 ~~evidence relevant to the petition. The development board shall~~
 12-32 ~~hold at least one hearing at a central location in the management~~
 12-33 ~~area to take testimony on the petition. The development board may~~
 12-34 ~~delegate responsibility for a hearing to the executive~~
 12-35 ~~administrator or to a person designated by the executive~~
 12-36 ~~administrator. If the development board finds that the conditions~~
 12-37 ~~require revision, the development board shall submit a report to~~
 12-38 ~~the districts that includes a list of findings and recommended~~
 12-39 ~~revisions to the desired future conditions of the groundwater~~
 12-40 ~~resources.~~

12-41 ~~[(n) The districts shall prepare a revised plan in~~
 12-42 ~~accordance with development board recommendations and hold, after~~
 12-43 ~~notice, at least one public hearing at a central location in the~~
 12-44 ~~groundwater management area. After consideration of all public and~~
 12-45 ~~development board comments, the districts shall revise the~~
 12-46 ~~conditions and submit the conditions to the development board for~~
 12-47 ~~review.~~

12-48 ~~[(o) The] districts in a management area to [shall] submit~~
 12-49 ~~the desired future conditions resolution adopted [established]~~
 12-50 ~~under Section 36.108, proof that notice was posted for the adoption~~
 12-51 ~~meeting, and the desired future conditions explanatory report [this~~
 12-52 ~~section] to the executive administrator. The executive~~
 12-53 ~~administrator shall provide each district and regional water~~
 12-54 ~~planning group located wholly or partly in the management area with~~
 12-55 ~~the managed available groundwater in the management area based upon~~
 12-56 ~~those [the] desired future conditions [condition of the groundwater~~
 12-57 ~~resources established under this section].~~

12-58 Sec. 36.1084. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each
 12-59 district in the management area shall ensure that its management
 12-60 plan contains goals and objectives consistent with achieving the
 12-61 desired future conditions of the relevant aquifers as adopted
 12-62 during the joint planning process.

12-63 Sec. 36.1085. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT
 12-64 AREA. [~~(p)~~] Districts located within the same [~~groundwater~~]
 12-65 management areas or in adjacent management areas may contract to
 12-66 jointly conduct studies or research, or to construct projects,
 12-67 under terms and conditions that the districts consider beneficial.
 12-68 These joint efforts may include studies of groundwater availability
 12-69 and quality, aquifer modeling, and the interaction of groundwater

13-1 and surface water; educational programs; the purchase and sharing
 13-2 of equipment; and the implementation of projects to make
 13-3 groundwater available, including aquifer recharge, brush control,
 13-4 weather modification, desalination, regionalization, and treatment
 13-5 or conveyance facilities. The districts may contract under their
 13-6 existing authorizations including those of Chapter 791, Government
 13-7 Code, if their contracting authority is not limited by Sections
 13-8 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

13-9 SECTION 17. Section 36.3011, Water Code, is amended to read
 13-10 as follows:

13-11 Sec. 36.3011. COMMISSION ACTION REGARDING [FAILURE OF]
 13-12 DISTRICT DUTIES [TO CONDUCT JOINT PLANNING]. Not later than the
 13-13 45th day after receiving the review panel's report under Section
 13-14 36.1082 [36.108], the executive director or the commission shall
 13-15 take action to implement any or all of the panel's recommendations.
 13-16 The commission may take any action against a district it considers
 13-17 necessary in accordance with Section 36.303 if the commission finds
 13-18 that:

13-19 (1) the [a] district has failed to submit its
 13-20 management plan to the executive administrator;

13-21 (2) the district has failed to participate in the
 13-22 joint planning process under Section 36.108;

13-23 (3) the (2) [a] district has failed to adopt rules;

13-24 (4) the district has failed to adopt the applicable
 13-25 desired future conditions adopted by the management area at a joint
 13-26 meeting;

13-27 (5) the district has failed to update its management
 13-28 plan before the second anniversary of the adoption of desired
 13-29 future conditions by the management area;

13-30 (6) the district has failed to update its rules to
 13-31 implement the applicable desired future conditions before the first
 13-32 anniversary of the date it updated its management plan with the
 13-33 adopted desired future conditions;

13-34 (7) [3] the rules adopted by the district are not
 13-35 designed to achieve the desired future conditions adopted by
 13-36 [condition of the groundwater resources in] the [groundwater]
 13-37 management area during the joint planning process; [or]

13-38 (8) [4] the groundwater in the management area is
 13-39 not adequately protected by the rules adopted by the district; [r]
 13-40 or

13-41 (9) the groundwater in the management area is not
 13-42 adequately protected because of the district's failure to enforce
 13-43 substantial compliance with its rules.

13-44 SECTION 18. As soon as practicable after the effective date
 13-45 of this Act, groundwater conservation districts shall appoint
 13-46 initial representatives to regional water planning groups as
 13-47 required by Subsection (c), Section 16.053, Water Code, as amended
 13-48 by this Act.

13-49 SECTION 19. Not later than January 1, 2013:

13-50 (1) the Texas Commission on Environmental Quality
 13-51 shall adopt rules under Subsection (f), Section 11.1271, Water
 13-52 Code, as amended by this Act;

13-53 (2) the Texas Water Development Board and the Texas
 13-54 Commission on Environmental Quality jointly shall adopt rules under
 13-55 Subsection (e), Section 16.402, Water Code, as amended by this Act;
 13-56 and

13-57 (3) the Texas Water Development Board and the Texas
 13-58 Commission on Environmental Quality, in consultation with the Water
 13-59 Conservation Advisory Council, shall develop the water use
 13-60 calculation system required by Section 16.403, Water Code, as added
 13-61 by this Act.

13-62 SECTION 20. The notice provisions of Subsections (b) and
 13-63 (c), Section 36.063, Water Code, as added by this Act, apply only to
 13-64 a meeting or hearing of a groundwater conservation district or a
 13-65 joint planning meeting of groundwater conservation districts held
 13-66 on or after the effective date of this Act. A meeting or hearing
 13-67 held before the effective date of this Act is subject to the notice
 13-68 provisions in effect at the time of the meeting or hearing, and
 13-69 those provisions are continued in effect for that purpose.

14-1 SECTION 21. The requirement that a groundwater conservation
14-2 district's management plan under Subsection (e), Section 36.1071,
14-3 Water Code, as amended by this Act, include the desired future
14-4 conditions adopted under Section 36.108, Water Code, as amended by
14-5 this Act, for submission to the executive administrator of the
14-6 Texas Water Development Board before the plan is considered
14-7 administratively complete applies only to a district management
14-8 plan submitted to the executive administrator on or after the
14-9 effective date of this Act. A management plan submitted before the
14-10 effective date of this Act is governed by the law in effect on the
14-11 date the plan was submitted, and that law is continued in effect for
14-12 that purpose.

14-13 SECTION 22. The procedures for the adoption and reporting
14-14 of desired future conditions of groundwater resources in a
14-15 management area under Section 36.108, Water Code, as amended by
14-16 this Act, and 36.1083, Water Code, as added by this Act, apply only
14-17 to the adoption of desired future conditions that occurs on or after
14-18 the effective date of this Act. Desired future conditions adopted
14-19 before the effective date of this Act are governed by the law in
14-20 effect on the date the desired future conditions were adopted, and
14-21 that law is continued in effect for that purpose.

14-22 SECTION 23. A petition filed and pending on the effective
14-23 date of this Act before the Texas Water Development Board to appeal
14-24 the adoption of desired future conditions by a groundwater
14-25 management area under former Subsection (l), Section 36.108, Water
14-26 Code, shall be handled by the Texas Water Development Board in
14-27 compliance with Subsections (l), (m), and (n), Section 36.108,
14-28 Water Code, as those subsections existed before the effective date
14-29 of this Act.

14-30 SECTION 24. This Act takes effect September 1, 2011.

14-31

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